

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

THOMAS FREDRICK TYNES
TX-1335138-L

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DOCKETED COMPLAINT NO.
08-147

AGREED FINAL ORDER

On this the 21st 8th day of April May, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Thomas Fredrick Tynes (Respondent).

In order to conclude this matter Thomas Fredrick Tynes denies the truth of the Findings of Fact and Conclusions of Law contained herein but agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Thomas Fredrick Tynes is a Texas state license real estate appraiser, holds license number TX-1335318-L, and has been licensed by the Board during all times material to the above-noted complaint case.
2. Respondent appraised 1112 Hilton Drive, Mansfield, Tarrant County, Texas 76063 ("the Hilton property") on or about March 7th, 2008.
3. Respondent appraised 3224 Sugarbush Drive, Carrollton, Denton County, Texas 75007 ("the Sugarbush property") on or about March 6th, 2008.
4. Respondent appraised 5059 Winesanker Way, Fort Worth, Tarrant County, Texas 76133 ("the Winesanker property") on or about March 4th, 2008.
5. On or about March 21st, 2008, the Complainant, David G. Brown, filed a complaint with the Board based on allegations that the Respondent failed to comply with the Uniform Standards of Professional Appraisal Practice in his completion of these reports.
6. On or about March 26th, 2008, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), Tex. Gov't Code Ann. Chpt. 2001, and Tex. Occ. Code Chpt. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent's responses were received.

7. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Hilton property:

- a) Respondent failed to comply with the conduct and record-keeping provisions of the Ethics Rule and failed to comply with the Scope of Work Rule;
- b) Respondent failed to provide his opinion of the contribution to or negative influence on value which seller concessions had on the properties being analyzed in the Hilton property appraisal report and failed to make appropriate adjustments when necessary;
- c) Respondent failed to identify and analyze economic supply and demand and market area trends, including misrepresenting market area conditions;
- d) Respondent failed to provide support for his site value determination;
- e) Respondent failed to provide support for his determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
- f) Respondent failed to provide support for accrued depreciation, failed to employ recognized methods and techniques and did not collect, verify, analyze and reconcile accrued depreciations in his cost approach. He employed a total economic life exceeding that used by the recognized cost publication he claims to have relied upon in his Hilton property report;
- g) Respondent has failed to collect, verify, analyze and reconcile comparable sale data adequately and has not employed recognized methods and techniques in his sales comparison approach. Generally, Respondent used inappropriate, comparable sales even though more appropriate, more similar sales were readily available in the immediate area (particularly with regard to gross living area, lot size, condition, quality of construction, amenities, seller concessions, location) and should have been used. In addition, Respondent made inadequate and/or no adjustments at all to the sales he employed in his report;
- h) Respondent misrepresented that he had inspected the interior and exterior of the Hilton property when he had not done so; and,
- i) Respondent's report contained substantial errors of commission or omission as detailed above which resulted in a misleading and unreliable appraisal report.

8. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Sugarbush Creek property:

- a) Respondent failed to comply with the conduct and record-keeping provisions of the Ethics Rule and the Scope of Work Rule;
- b) Respondent failed to provide his opinion of the contribution to or negative influence on value which seller concessions had on the properties being analyzed in the Sugarbush property appraisal report and failed to make appropriate adjustments when necessary;
- c) Respondent failed to identify the extraordinary assumption that the roof (which he discloses is potentially damaged) was in good repair and then proceeds to make the appraisal in "as is" condition;
- d) Respondent failed to identify and report the site description adequately by misrepresenting significant and material information about the specific zoning classification and description and lot size and dimensions for the Sugarbush property;
- e) Respondent failed to identify and analyze economic supply and demand and market area trends, including misrepresenting market area conditions;
- f) Respondent failed to provide a brief summary of his supporting rationale for his determination of the Sugarbush property's highest and best use;
- g) Respondent failed to provide support for his site value determination;
- h) Respondent failed to provide support for his determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
- i) Respondent failed to provide support for accrued depreciation, failed to employ recognized methods and techniques and did not collect, verify, analyze and reconcile accrued depreciations in his cost approach. He employed a total economic life in excess of recognized cost publications, which he himself claims to have relied upon in his Sugarbush property report;
- j) Respondent has failed to collect, verify, analyze and reconcile comparable sale data adequately and has not employed recognized methods and techniques in his sales comparison approach. Generally, Respondent used inappropriate, comparable sales even though more appropriate, more similar sales were readily available in the immediate area (particularly with regard to gross living area, lot size, quality of construction, and the presence or absence of a pool and spa) and should have been used. In addition, Respondent made inadequate and/or no adjustments at all to the sales he employed in his report;
- j) Respondent misrepresented that he had inspected the interior and exterior of the Sugarbush property when he had not done so; and,

- k) Respondent's report contained substantial errors of commission or omission as detailed above which resulted in a misleading and unreliable appraisal report.
9. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the Winesanker Creek property:
- a) Respondent failed to comply with the conduct and record-keeping provisions of the Ethics Rule and the Scope of Work Rule;
 - b) Respondent failed to identify and report the site description adequately by misrepresenting significant and material information about the specific zoning classification and description for the Winesanker property;
 - c) Respondent failed to identify and analyze economic supply and demand, and market area trends, including misrepresenting market area conditions. He also failed to disclose, describe and analyze the post-foreclosure, real estate owned property ("REO") sales which were a significant and material component of the Winesanker property's market;
 - d) Respondent failed to provide support for his site value determination;
 - e) Respondent failed to provide support for his determination of the cost new of improvements, failed to employ recognized methods and techniques, and did not properly collect, verify, analyze and reconcile this data;
 - f) Respondent failed to provide support for accrued depreciation, failed to employ recognized methods and techniques and did not collect, verify, analyze and reconcile accrued depreciations in his cost approach. He employed a total economic life in excess of recognized cost publications, which he himself claims to have relied upon in his Winesanker property report;
 - g) Respondent has failed to collect, verify, analyze and reconcile comparable sale data adequately and has not employed recognized methods and techniques in his sales comparison approach. Generally, Respondent used inappropriate, comparable sales even though more appropriate, more similar sales were readily available in the immediate area (particularly with regard to interior condition and quality of construction) and should have been used. In addition, Respondent made inadequate and/or no adjustments at all to the sales he employed in his report;
 - l) Respondent misrepresented that he had inspected the interior and exterior of the Winesanker property when he had not done so; and,
 - h) Respondent's report contained substantial errors of commission or omission as detailed above which resulted in a misleading and unreliable appraisal report.

10. Respondent has made material misrepresentations and omitted material facts in the appraisal reports as detailed above.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (conduct and record-keeping provisions); USPAP Scope of Work Rule; USPAP Standards Rules: 1-2(h) & 2-2(b)(vii); 1-2(c) & 2-2(b)(v); 1-2(e)(i) & 2-2(b)(iii); 1-2(f) or 1-2(g) and 2-1(c); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-1(a); 1-1(b); 1-1(c); 2-1(a); and, 2-3 & 2-2(b)(xii).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have his certification suspended for twenty-four months with his certification fully suspended for the first three months and the remaining twenty-one months of the suspension fully probated under the following conditions:
 - i. During the entire twenty-four month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of this period of probation within the twenty days of notice of any such request;
 - ii. No trainees shall be sponsored during the entirety of the suspension;
 - iii. Respondent shall fully and timely comply with all of the provisions of this Agreed Final Order.
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;

- c. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- d. Attend and complete a minimum, 7 classroom-hour course in Quality Assurance in Residential Appraisals: Risky Appraisals = Risky Loans;
 - i. No examination shall be required for this course; and
- f. Pay to the Board an administrative penalty of \$3,000.00
 - i. Payment of the administrative penalty shall be made in twenty equal, and monthly \$150.00 installments, with the first payment being due on or before June 1st, 2010, and the remaining payments being due on the first of each month thereafter until paid in full; and
- g. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered in accordance with the terms of this Agreed Final Order.

Failure to comply with any of the terms required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the required terms of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the probation shall be revoked

and the suspension shall remain in effect for the full remainder of the twenty-four month suspension period.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 8th day of April, 2010.

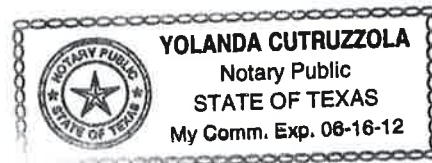

THOMAS FREDRICK TYNES


TED WHITMER, ATTORNEY
FOR RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 8th day of April, 2010, by THOMAS FREDRICK TYNES, to certify which, witness my hand and official seal.


Notary Public Signature


Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 25th day of MAY, 2010.


Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 21 day of May, 2010.

Douglas E. Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21st day of May, 2010.



James B. Ratliff, Chairperson
Texas Appraiser Licensing and Certification Board